IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 20481 of 2004

Between:

T. Ramachandra Reddy, S/o. T. Gurva Reddy,
R/o. D.No.19-12-15, Bairagipatteda, Tirupathi, Chittoor district.

..... PETITIONER

AND

1. The TTD Trust Board, Specified Authority, rep. by its Chairman, Tirupati, Chittoor District.
2. The Executive Officer, Tirumala Tirupati Devasthanams, Tirupathi, Chittoor District.
3. The Joint Executive Officer, Tirumala Tirupati Devasthanams, Tirupati, Chittoor district.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ order or direction particularly one in the nature of writ of certiorari after calling for the records in proceedings ROC.No.DA1/32962/94 dt. 06.11.1995 imposing the punishment of stoppage of five increments with cumulative effect by the Joint Executive Officer, TTDs as confirmed by the specified Authority/Trust Board of TTDs in Proceedings ROC.No.B2/8939/96 dt. 10.06.02 and quash the same as illegal, arbitrary and contrary to the rules and pass.

Counsel for the Petitioner: MR.M.PANDURANGA RAO

Counsel for the Respondents: MR.P.SURESH REDDY

The Court at the admission stage, made the following :

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HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No. 20481 of 2004

ORDER:

Petitioner is working as a Superintendent in the office of the 2nd respondent. He was imposed a punishment of stoppage of five increments with cumulative effect through the proceedings dated 06-11-1995 issued by the 2nd respondent in a departmental enquiry. The petitioner being aggrieved by the said order, preferred an appeal to the 1st respondent on 01-03-1996. The appellate authority rejected the appeal through an order dated 10-06-2002.

2. Petitioner contends that the appellate authority did not pass any speaking order. He further contends that as per the AP Civil Service (CC & A) Rules, 1991, which were applicable to the petitioner as on the date of the order of the disciplinary authority. Imposing the punishment of stoppage of five increments with cumulative effect is a major punishment. As per Rule 9 of the AP Civil Service (CC & A) Rules, 1991, there is a minor penalty of withholding of increments but the punishment of stoppage of increments with cumulative effect is not incorporated as one of the punishments under Rule 9 of Rules, 1991. Since the second respondent imposed the punishment, which was not prescribed under Rule 9 of the Rules prior to amendment, which came into force in 1998, the order of the second respondent dated 06.01.1995 is liable to be quashed.

3. The learned counsel for the respondents concedes that prior to 1998 amendment, the penalty of stoppage of increments with cumulative

effect was not included as one of the punishments under Rule 9 of the Rules, 1991. But he submits that as the withholding of increments is included under the head of “minor penalties” and as the Rule is silent whether the withholding of punishment is with cumulative effect or without cumulative effect, it shall be interpreted as a punishment of stoppage of increments with cumulative effect. Therefore, he submitted that there is no illegality in the order of the second respondent and the writ petition is liable to be dismissed.

4. But, when there is no specific provision in the Rules regarding the imposition of a particular type of punishment, the disciplinary authority is not competent to impose such punishments, and if such order is passed by the disciplinary authority, it is liable to be quashed.

5. In the light of the above circumstances, the writ petition is allowed. The order of the second respondent dated 06.11.1995 imposing the penalty of stoppage of five increments of the petitioner with cumulative effect is set aside. The order of the second respondent finding the appellant guilty of the charge is not disturbed. This order will not preclude the second respondent from passing appropriate order as per the Rules that were enforced at the time of passing final order and if the second respondent so chooses, may impose such penalty as provided under the rules after following the procedure prescribed under the Rules, and giving opportunity to the petitioner. No order as to costs.

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November 8, 2004.

KVR

To

1. The Chairman, TTD Trust Board, Specified Authority, Tirupati, Chittoor District.
2. The Executive Officer, Tirumala Tirupati Devasthanams, Tirupathi, Chittoor District.
3. The Joint Executive Officer, Tirumala Tirupati Devasthanams, Tirupati, Chittoor district.
4. Two C.D.Copies.